THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

THE HON'BLE SRI JUSTICE P LAKSHMANA REDDY

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Writ Appeal No. 1493 OF 2005

Dated: 14-09-2005

Between:

The Commissioner and Director of School Education,

Andhra Pradesh, Hyderabad.

and another. ..Appellants

And

1. B. Nagamuni and 3 others ..Respondents

THE HON'BLE SMT JUSTICE T.MEENA KUMARI

AND

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WA No. 1493 OF 2005

JUDGMENT: (per the Hon'ble Smt. Justice T. Meena Kumari)

1. The respondents in the writ petition, being aggrieved by the directions for considering the case of the petitioners' for absorption into Class-IV category and release of grant-in-aid from 1-8-94 with a further direction to complete the exercise within a period of six weeks from the date of

the order, filed the present writ appeal.

2. The brief facts of the case that led to filing this writ appeal are as follows:- The respondents herein filed the above writ petition seeking a writ of Mandamus declaring the action of the appellants-authorities in not confirming their services as contingent/IV Class employees as illegal, arbitrary and for consequential direction to the appellants/respondents to regularize their services as contingent/IV class employees in 3rd respondent College. The main grievance of the writ petitioners was that the 3rd respondent is one of the oldest Educational Institution started up to 7th class, later on got recognition up to 10th class and presently the 2nd respondent college is imparting education up to pre-University level. The school as well as the Junior College are run by the management i.e., 3rd respondent. The petitioners were appointed in the said High School Section as contingent employees in 1978, 1990 & 1991 respectively and they have worked for considerably long time and are working as contingent employees and are entitled for regularisation in the existing regular posts. It was also stated in the affidavit that in a writ petition W.P. No. 2592 of 1998 filed by another petitioner, who was similarly situated to that of the petitioners herein, this Court after considering the effect of GOMs No.237, Edn (II) Dept., dt. 4.4.1985 vis-à-vis the entitlement of a contingent employee for regularisation in a superannuated vacancy, directed the respondents therein to consider the case of the petitioner for absorption as class IV employee. It is the further case of the writ petitioners that as they are similarly situated, they are also entitled for the relief as prayed. The learned single Judge, following the decision in W.P.No. 2592 of 1998, dated 14-7-1999, allowed the writ petition directing the appellants herein to consider the petitioners' case for absorption into Class-IV category keeping in view the duration of service, which they have already put up, and also release grant-in-aid from 1-8-1994 i.e., the date on which the Correspondent sent proposal in this regard, as the petitioners fulfilled the qualifications specified in G.O.,Ms.No. 237 dated 4.4.1985. Further, the learned Single Judge made it clear that the above exercise shall be

completed within a period of six weeks from the date of the order. Hence, the appeal.

4. The main ground urged on behalf of the appellants before this Court is that the learned single Judge ought not have directed the appellants to release the grant-in-aid from 1.8.1994.

5. The learned Government Pleader appearing for the appellants has contended before us that as the Management appointed the respondents herein, it alone is responsible for the payment of their salaries till the Government releases grant-in-aid.

6. Per contra, the learned Counsel appearing on behalf of the respondents herein contended that in view of the categorical finding given by the learned single Judge to consider the petitioners' case for absorption in to class IV category keeping in view the duration of service, which they have already put up, and also for release grant-in-aid from 1-8-1994 i.e., the date on which the Correspondent has sent proposal as the petitioners fulfilled the qualifications specified in G O Ms No. 237 dated 4-4-1985, the appellants cannot throw the liability on the Management for the payment of salaries to the respondents.

7. Heard. Perused the impugned order. In the light of the above contentions raised before us, we see some force in the contention raised by the Government Pleader appearing on behalf of the appellants. Hence, we deem it appropriate to modify the impugned order to the effect that the appellants should consider the respondents' case for absorption in to class-IV category keeping in view of the duration of service; however, the grant in aid should be released from the date of the order of the Competent Authority.

8. With the above observation, the writ appeal is disposed of. No costs.

T. MEENA KUMARI, J

P. LAKSHMANA REDDY, J

Dt. 14.9.2005

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Writ Appeal No. 1493 OF 2005

(Order of the Division Bench made by the

Hon'ble Smt Justice T Meena Kumari)

14th September 2005